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PATENTS

Attorney Docket No. FPY-048C3
(031039/165020)REMARKS

Claims 1-62 are pending in the application. Claims 38 and 50 have been amended to recite a spoolable composite tube. Support for such amendment can be found, for example, on page 4 lines 15-16 of the instant specification.

Amendment of the originally filed claims, or cancellation of any claims should in no way be construed as an acquiescence, narrowing, or surrender of any subject matter. The amendments are being made not only to point out with particularity and to claim the present invention, but also to expedite prosecution of the present application. Applicants reserve the option to prosecute the originally filed claims further, or similar ones, in the instant or subsequently filed patent applications.

Rejections under 35 U.S.C. § 103

Claims 38-62 stand rejected under 35 U.S.C. § 103 as being unpatentable over Thomeer, U.S. Patent 5,828,003 in view of Charboneau, U.S. 5,551,484. As Examiner knows, and based at least on MPEP 2143, a prima facie case of obviousness under 35 U.S.C. 103(a) requires (1) a suggestion or motivation in the references themselves or generally known in the art, to combine the references, (2) a reasonable expectation of success to combine, and (3) a teaching, via the combination, of all the claimed limitations.

As the Office Action notes, the Thomeer patent "differs from the claimed invention because it does not disclose that the tubing comprises a sensor." Further, Charboneau does not teach or suggest a tube where the *sensor coupled to the wall of the tube*, as required by the instant claims. Figure 1 of Charboneau depicts detectors located *outside* of a tube. Nor does Charboneau teach a spoolable tube as required by claims 38-62. Therefore, neither Charboneau nor Thomeer alone or in combination do not teach or suggest each and every limitation of the claims.

PATENTS
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Further, there is no suggestion or motivation in either Charboneau or Thomeer to combine these references and arrive at the instant invention. "The totality of the prior art must be considered, and proceeding contrary to accepted wisdom in the art is evidence of nonobviousness." M.P.E.P 2145 X D.3 For example, the Thomeer reference suggests the difficulty of spooling a tube with conductive wires. Faced with such a suggestion, one of skill in the art would not be motivated to include a sensor *coupled to the wall of the tube*, in a spoolable tube, as required by the instant claims.

Finally, there is no expectation of success in combining Thomeer and Charboneau and arriving at a *spoolable* tube with a sensor *coupled to the wall of the tube*, as required by the instant claims.

For at least these reasons, Applicants respectfully request withdrawal of this rejection.

JAN 11 2007

PATENTS
Attorney Docket No. FPY-048C3
(031039/165020)

CONCLUSION

In view of the foregoing remarks, Applicants request that the Examiner reconsider and withdraw the pending rejections.


In accordance with 37 C.F.R. § 1.136(a), please grant any extension of time that this paper requires but no accompanying paper requests. Also, please charge any additional fee occasioned by this paper, or credit any overpayment, to our Deposit Account No. 07-1700, Reference FPY-048C3.

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Respectfully submitted,

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